

CHAPTER XIV

SUMMARY SUITS

221. Summons for Judgment. – (i) In a suit filed under Order XXXVII of the Code of Civil Procedure, if the defendant enters an appearance in person or a vakaltnama the plaintiff shall apply by Summons for Judgment to the Judge in Chambers for a decree for the amount claimed, together with interest, if any, and costs. The summons shall be supported by affidavit, confirming the facts alleged in the plaint and stating that in the deponent's belief there is no defence to the suit. The summons shall be in Form No. 11 and shall be made returnable not less than ten clear days from the date of the service.

(ii) The defendant may apply on such summons for leave to defend the suit by filing an affidavit or affidavits, showing that he has a good defence to the suit on the merits or disclosing such facts as may be deemed sufficient to entitle him to defend.

(iii) Leave to defend the suit may be granted to the defendant unconditionally or upon such terms as to the Judge may seem just. If leave to defend is granted, the Judge may give such directions as he may deem fit.

(iv) If the defendant does not apply for leave to defend or if such application is made and is refused, the Judge may pass a decree forthwith for the plaintiff.

222. Judgment for part of claim. – If it appears that the defence set up by the defendant applied only to a part of the plaintiff's claim, or that any part of the claim is admitted, the plaintiff shall have judgment forthwith for such part of his claim as the defence does not apply to or as is admitted, subject to such terms, if any, as to suspending execution, taxation of costs, or otherwise, as the Judge may think fit; and the defendant may be allowed to defend as to the remaining claim of the plaintiff.

223. Where one defendant has good defence but another has not. – If it appears to the Judge that one defendant has good defence to the suit and ought to be permitted to defend the same, and that another defendant has not such defence and ought not to be permitted to defend, the former may be permitted to defend and the plaintiff shall be entitled to enter final judgment against the latter, and he may issue execution upon such judgment without prejudice to his right to proceed with his suit against the former.

224. Default in completing security or carrying out directions. - If the defendant does not complete his security (if any) or carry out such other directions as the Judge may have given within the time limited in the order, the plaintiff shall be at liberty

to have the suit set down for hearing forth with before the Judge in Chambers, as if no order granting leave had been made.

225. Setting down of summary suits for hearing. - Summary suits in which leave to defend is granted shall, as far as possible, be set down for hearing, before the Judge appointed from time to time by the Chief Justice for that purpose, on the days fixed for the hearing thereof.

226. Defendant's default in filing appearance or Vakalatnama. - If the defendant does not enter an appearance in person or a vakalatnama within ten days from the service upon him of the Writ of Summons and the plaint, the plaintiff shall be at liberty to have the suit set down forth with for hearing before the Judge in Chambers.

227. When no decree applied for within six months. – If the plaintiff does not apply for a decree within six months after the filing of the plaint, the suit shall be set down for dismissal on the board of the Judge in Chambers. The Prothonotary and Senior Master shall notify on his notice board the date on which the suit is to be so set down and shall do so at least eight days before such date. If the plaintiff is appearing in person, the Prothonotary and Senior Master shall give notice of the date to the plaintiff by sending a letter to him by post under certificate of posting.
